



ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the order of the Court.

Signed January 17, 2006

Harlin DeWayne Hale
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

ACCIDENT & INJURY PAIN
CENTERS, INC., et al.,

Debtors.

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CASE NO. 05-31688-HDH-11
Jointly Administered

ACCIDENT & INJURY PAIN
CENTERS, INC., et al.,

Plaintiffs

v.

JIM S. ADLER, Individually and d/b/a
JIM S. ADLER & ASSOCIATES,
PAUL ANDREW WILBUR, JR.,
LORI LEI BROWN and
JIM S. ADLER, P.C. d/b/a
JIM S. ADLER & ASSOCIATES,

Defendants.

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ADV. NO. 05-3692-HDH

FINDINGS OF FACT AND CONCLUSIONS OF LAW ON ADLER DEFENDANTS'
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH
RELIEF CAN BE GRANTED AND MOTION TO DISMISS FOR LACK
OF SUBJECT MATTER JURISDICTION

**FINDINGS OF FACT AND CONCLUSIONS OF LAW ON ADLER DEFENDANTS'
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH
RELIEF CAN BE GRANTED AND MOTION TO DISMISS FOR LACK
OF SUBJECT MATTER JURISDICTION**

CAME ON TO BE CONSIDERED on January 5, 2006, the Adler Defendants' Motion to Dismiss for Failure to State a Claim Upon Which Relief May be Granted, Motion to Dismiss for Lack of Subject Matter Jurisdiction filed in this adversary proceeding on behalf Jim S. Adler, P.C., Jim S. Adler, Paul Andrew Wilbur, and Lori Lei Brown, all the named defendants herein ("Defendants"), and the Court, having considered the consolidated arguments of counsel and the pleadings and papers before it, finds (together with other findings made on the record at the hearing), that cause exists for the granting of certain of the relief requested by Defendant because the claim based upon an alleged violation of the automatic stay is not appropriately an issue for an adversary proceeding, and the Original Complaint alleges no wrongdoing by any of the individually named Defendants. It is therefore

ORDERED, ADJUDGED AND DECREED that Plaintiff's claims for "violation of the automatic stay" are hereby DISMISSED for failure to state a claim upon which relief can be granted. It is further

ORDERED, ADJUDGED AND DECREED that Plaintiff's claims against the individually named defendants Jim S. Adler, Paul Andrew Wilbur and Lori Lei Brown are hereby dismissed from this lawsuit without prejudice because the Original Complaint fails to state a claim upon which relief can be granted against such individuals. It is further

ORDERED, ADJUDGED AND DECREED that the Defendants' motion to dismiss as to the Plaintiff's turnover claim will be denied at this time without prejudice. It is further

ORDERED, ADJUDGED AND DECREED that all other relief requested by Defendants, including the request for dismissal based on subject-matter jurisdiction, is hereby denied.

end of order